

MEMORANDUM OF LAW

DATE: September 29, 1986

TO: City Clerk's Office,

ATTN: Maydell Pontecorvo

FROM: City Attorney

SUBJECT: Introduction of Ordinances and Minute entries
in connection therewith

Your inquiry of August 12, 1986 ¶which we received in writing on September 24, 1986σ asks our advice about the correct treatment of ordinances at the introductory stage when amendments have been made. You also ask a second question as to the correct minute notation to make under those circumstances.

I did advise you orally in August on the question of the appropriateness of the term "reintroduction." At that time, I concluded that indicating "reintroduction" was improper but that was in response to the specific scenario presented. I shall, by this memorandum, attempt to clarify the matter and advise you of the correct minute notations.

In respect to your inquiry ¶both questionsσ, if an ordinance is docketed for introduction and significant ¶substantiveσ amendments are made, the introductory phase is continued until a later date so that our office may promulgate an ordinance incorporating those amendments. In such case ¶your question no. 2σ, the minutes should read that the ordinance was returned to the City Attorney for amendment, to be returned to Council for introduction. There will, under such circumstances, on the first date, be no vote taken upon the introduction of the ordinance. Hence, when it is revised by our office and returned to Council, the appropriate Council action and minute notation is that it is now "Introduced." This is so because it was not previously introduced.

Exploring this process from a slightly different perspective, if the ordinance is docketed for introduction by the Council and some insubstantial amendment is made by Council, the attorney will often declare that the amendment(s) is not substantive and

will thereafter incorporate the amendment(s) by interlineation on the ordinance before the Council. In such case, the ordinance is "introduced, as amended" and you may record that action in your minutes. Prior to the adoption stage, our office will provide the Clerk's office with a clean copy incorporating the amendments and note thereon that it is a revised copy. In connection with

and while discussing this scenario, as past practice ¶and it is perfectly acceptable and permissibleσ the City Attorney may make nonsubstantive, minor grammatical, typographical, computational or constructional corrections at any time prior to Council adoption without interrupting the ordinance enactment time track. This comes about because of legal clarity and/or proper grammatical expression and is effectuated by substitution of the affected page, with notation thereon that it has been "corrected" with the correction date. This furthers the principle of proper statutory promulgation without impacting the purpose, intent or meaning of the legislative documents and, in actuality, promotes effective governmental operation by permitting the process to follow its normal course.

There is a third situation in this process which we must address and which should resolve your concern about the term "reintroduction." When an ordinance has been docketed for introduction by Council and is, in fact, introduced, you then bring it back for adoption ¶excepting therefrom, of course, those ordinances that are introduced and adopted on the same dayσ. ¶See Charter Secs. 16 and 17.σ When the "introduced" ordinance is returned two weeks hence, the Council may (1) adopt without any problem or (2) decide to make substantive amendments after having thought about it for two weeks. In such case, the adoption can not take place ¶for the same reasons set forth above during the introduction stageσ and the ordinance would then be returned to our office for necessary work. When completed, it would then be docketed for "reintroduction." Your minute notation in such case should read that the ordinance was returned to the City Attorney for necessary amendment, to be returned thereafter for "reintroduction, as amended."

I trust the above discussion addresses all of your concerns and questions.

JOHN W. WITT, City Attorney

By

Jack Katz, Chief Deputy

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